

### **REMARKS/ARGUMENTS**

These remarks are submitted in response to the Office Action of June 2, 2009 (Office Action). Claims 1-21 are pending. No new matter has been added. It should be noted that the terms Applicant, Applicants, Applicant's, and Applicants' as used herein shall relate to all inventors associated with the present Office Action.

The Office Action rejected claims 1-11 under 35 U.S.C. 101 where the Office Action asserts that the claimed invention is directed to non-statutory subject matter. Applicant respectfully disagrees but in the interest of advancing the prosecution, the claims have been amended to recite the use of physical memories of the first, second and third computing devices.

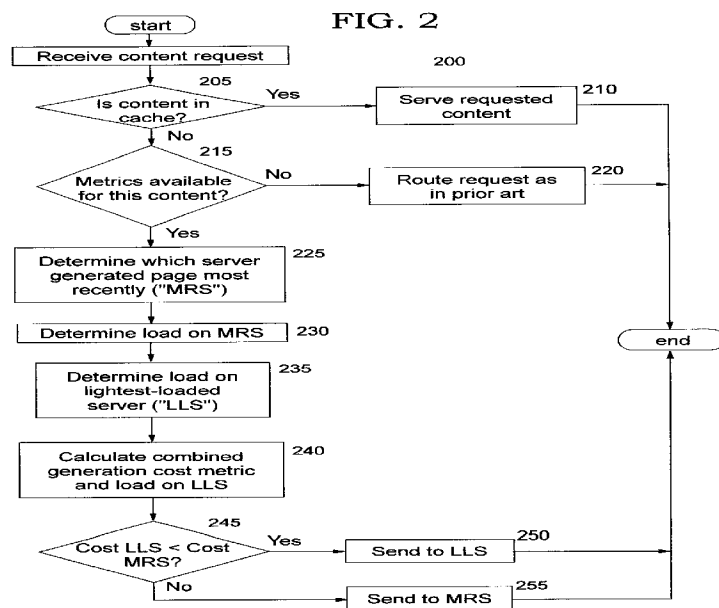
The Office Action rejects claims 1-21 under 35 U.S.C. 112, first paragraph, based on the limitation of "the stateless module manager enabling the only one information module to receive the requests and all subsequent requests independent of an availability of the information modules for previous requests." The claims have been amended to indicate that the stateless module manager enables the only one information module to receive the subsequent requests independent of an availability of other information modules. As the Office Action concedes, the specification at paragraph 29 (original application as filed) states that the module that makes the first claim to a request can own it from then on:

The module manager 210 also handles service collisions. For example, two modules could register as handlers for the same type of request (e.g., stock quotes). One method to handle this problem is an opportunistic mode wherein whichever module makes the first claim to a request owns it from then on. Another approach is to register and/or prioritize modules to determine which module receives a request.

The previous Office Action of December 23, 2008 rejected claims 1-21 under 35 U.S.C. 103 as being unpatentable over Bavadekar in view of Doyle, further in view of

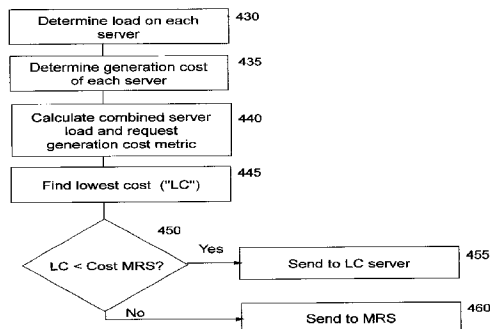
Stumm and further in view of Noble. These claims include the feature of the stateless module manager enables the only one information module to receive the subsequent requests independent of an availability of other information modules. The previous Office Action conceded that Bavadekar does not disclose these features, but asserted that Doyle discloses allowing servers to claim client requests such that subsequent requests for the same type of information will be handled by the server that handled the first request.

Applicant respectfully points out that Doyle is directed towards a load balancing system where a server that most recently generated content can process the same content subsequently, but only when the load balancing for the system is satisfied as shown in steps 225 through steps 245 of FIG. 2 where the lightest load server (LLS) will generate the content rather than the most recent server (MRS) based on cost metrics:



This load-balancing technique is also shown in FIG. 4 of Doyle:

FIG. 4



Moreover, in order to determine the load, Doyle would need to monitor load conditions including availability of servers during various requests. Thus, Doyle does not disclose the claimed feature of the stateless module manager enabling the only one information module to receive the subsequent requests independent of an availability of other information modules.

Additionally, one of ordinary skill in the art would not modify Doyle so that the servers generate the content independently of an availability of the servers since the objective of the Doyle system is to take into consideration server availability:

An object of the present invention is to provide improved load balancing techniques.

Another object of the present invention is to provide a load balancing technique which more efficiently routes requests for dynamic content generation.

**Yet another object of the present invention is to provide a load balancing technique that considers cost metrics when determining where to route a content request.**

Other objects and advantages of the present invention will be set forth in part in the description and in the drawings which follow and, in part, will be obvious from the description or may be learned by practice of the invention.

**To achieve the foregoing objects, and in accordance with the purpose of the invention as broadly described herein, the present invention provides methods, systems, and computer program products for improving load balancing operations using cost metrics.** This technique preferably comprises:

obtaining cost metrics representing a cost of generating document content; receiving a request for particular document content; and using the obtained cost metrics as a factor when routing the request to a selected one of a plurality of servers. (As an alternative to routing the request, a response may be created using cached content, if available.) (Doyle col. 2, lines 14-39)(emphasis added).

The remaining references do not make up for the deficiencies in Bavadekar and Doyle.

### **CONCLUSION**

Applicant believes that this application is in full condition for allowance. Allowance is therefore respectfully requested. Applicant requests that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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